IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.779 OF 1987
IN
SUIT NO.871 OF 1987

Uma Anand and others Plaintiffs

versus

Kewalram Mulchand Anand & others Defendants

Mr.Bharat Joshi for plaintiffs.

Mr.P.N.Mody for defendants 16 and 17.

Mr.Uday Bobde for defendants 7,8 and 9

Ms.K.C.Nichani for defendant no.10

CORAM : S.C.DHARMADHIKARI, J.
DATE : 10th June 2005

PC :

1. The matter has been shown before me under the caption " for settlement/hearing". It appears that the matter was placed to explore possibility of settlement and/or reference to mediation since the dispute is between members of a joint family. However, it appears that the plaintiffs claim is being contested on the ground that her deceased husband does not have a share in the properties which are mentioned at Exhibit-B to the plaint.

The fact remains that on this Notice of Motion earlier an order was passed on 7th March 1989 which was challenged in appeal by the plaintiffs. The Appellate Court by order dated 24th January 1996 set aside that order and substituted it by a direction not to dispossess the plaintiffs of the room marked "A" and storage marked "C" in a plan which was annexed to the appeal paper book. That order was to continue till present Notice of Motion was heard and disposed off.

2. Mr.Joshi as well as all contesting defendants agree that the present Notice of Motion can be disposed off in terms of this order of the Appellate Court, and they have no objection to the same being continued till the hearing and final disposal of the suit. Hence it is directed that the order passed by the Appellate Court in Appeal No.911 of 1989 on 24th January 1996 shall continue till hearing and final disposal of the suit. Notice of Motion stands disposed off in terms of this order.

3. Mr.Joshi invites my attention to the fact that in Notice of Motion a prayer is also made for payment of maintenance from some defendants and in that behalf he presses prayer clause (b).

Considering the fact that the Notice of Motion has been pending from 1987 and that enough materials are not available on record to decide the issue of maintenance, it will be open for the plaintiffs to apply afresh if so advised, for maintenance and the present order shall not constitute a bar in plaintiffs applying or for this Court considering the said issue. It will also be open to apply for other reliefs, if the plaintiffs are so advised.

(S.C.DHARMADHIKARI, J.)